

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

STONEBRIDGE CROSSING APARTMENTS,

Plaintiff,

v.

Case No. 2:20-cv-2166-MSN-cgc

KEMIA HAWKINS,

Defendant.

**ORDER ADOPTING REPORT AND RECOMMENDATION, REMANDING ACTION
TO SHELBY COUNTY GENERAL SESSIONS COURT, DENYING DEFENDANT’S
MOTION TO REMAND AS MOOT, AND CERTIFYING AN APPEAL WOULD NOT
BE TAKEN IN GOOD FAITH**

Before the Court is the Magistrate Judge’s Report and Recommendation dated March 9, 2020 (“**Report**”). (ECF No. 7.) The Report recommends that this detainer action be remanded back to the Shelby County General Sessions Court due to lack of subject matter jurisdiction. (*Id.* at PageID 18.)

Congress enacted 28 U.S.C. § 636 to relieve the burden on the federal judiciary by permitting the assignment of district court duties to magistrate judges. *See United States v. Curtis*, 237 F.3d 598, 602 (6th Cir. 2001) (citing *Gomez v. United States*, 490 U.S. 858, 869–70 (1989)); *see also Baker v. Peterson*, 67 F. App’x 308, 310 (6th Cir. 2003). For dispositive matters, “[t]he district judge must determine *de novo* any part of the magistrate judge’s disposition that has been properly objected to.” *See* Fed. R. Civ. P. 72(b)(3); 28 U.S.C. §636(b)(1). After reviewing the evidence, the court is free to accept, reject, or modify the magistrate judge’s proposed findings or recommendations. 28 U.S.C. § 636(b)(1). The district court is not required to review—under a *de*

novo or any other standard—those aspects of the report and recommendation to which no objection is made. *See Thomas v. Arn*, 474 U.S. 140, 150 (1985). The district court should adopt the magistrate judge’s findings and rulings to which no specific objection is filed. *See id.* at 151.

Objections to any part of a magistrate judge’s disposition “must be clear enough to enable the district court to discern those issues that are dispositive and contentious.” *Miller v. Currie*, 50 F.3d 373, 380 (6th Cir. 1995); *see also Arn*, 474 U.S. at 147 (stating that the purpose of the rule is to “focus attention on those issues . . . that are at the heart of the parties' dispute.”). Each objection to the magistrate judge’s recommendation should include how the analysis is wrong, why it was wrong, and how *de novo* review will obtain a different result on that particular issue. *See Howard v. Sec’y of Health & Human Servs.*, 932 F.2d 505, 509 (6th Cir. 1991). A general objection, or one that merely restates the arguments previously presented and addressed by the magistrate judge, does not sufficiently identify alleged errors in the report and recommendation. *Id.* When an objection reiterates the arguments presented to the magistrate judge, the report and recommendation should be reviewed for clear error. *Verdone v. Comm’r of Soc. Sec.*, No. 16-CV-14178, 2018 WL 1516918, at *2 (E.D. Mich. Mar. 28, 2018) (citing *Ramirez v. United States*, 898 F. Supp. 2d 659, 663 (S.D.N.Y. 2012)); *Equal Employment Opportunity Comm’n v. Dolgencorp, LLC*, 277 F. Supp. 3d 932, 965 (E.D. Tenn. 2017).

The deadline to object to the Report has passed, and neither Plaintiff nor Defendant have filed objections. The Court has reviewed the Report for clear error and finds none. For the foregoing reasons, the Court **ADOPTS** the Report and **REMANDS** this detainer action back to the Shelby County General Sessions Court. As this Court is adopting the Report recommending the action be remanded, Defendant’s Motion to Remand filed March 12, 2020 (ECF No. 8) is hereby **DENIED AS MOOT**.

Pursuant to 28 U.S.C. § 1915(a)(3), the Court must also consider whether an appeal by Plaintiff in this case would be taken in good faith. The good faith standard is an objective one. *Coppedge v. United States*, 369 U.S. 438, 445 (1962). An appeal is not taken in good faith if the issue presented, such as subject matter jurisdiction here, is frivolous. *Id.* The same considerations that lead the Court to remand this matter due to lack of subject matter jurisdiction also compel the conclusion that an appeal would not be taken in good faith. Therefore, it is **CERTIFIED**, pursuant to 28 U.S.C. § 1915(a)(3), that any appeal in this matter by Plaintiff would not be taken in good faith.

IT IS SO ORDERED, this 24th day of March 2020.

s/ Mark S. Norris

MARK S. NORRIS

UNITED STATES DISTRICT JUDGE